

REMARKS

This paper is submitted in reply to the Office Action dated May 18, 2005, within the three-month period for response. Reconsideration and allowance of all pending claims are respectfully requested.

In the subject Office Action, claims 31-33 and 57 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Moreover, claims 1-10, 12-16, 18-29, 31-32 and 93 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,785,834 to Chefalas et al. in view of U.S. Patent No. 6,671,818 to Mikurak; claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Chefalas et al. in view of Mikurak and Sim et al. "Simulation of a multi-agent protocol for task allocation in cooperative design" (12-15 Oct. 1999) and further in view of Nonogaki et al "FRIEND21 project: a construction of 21st century human interface" (March 1991); and claims 17, 30, 33 and 57 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Chefalas et al. in view of Mikurak and further in view of U.S. Patent No. 6,151,643 to Cheng et al.

Applicants respectfully traverse the Examiner's rejections to the extent that they are maintained. Applicants have canceled claim 32 and amended claims 31 and 57, and Applicants respectfully submit that no new matter is being added by the above amendments, as the amendments are fully supported in the specification, drawings and claims as originally filed.

First, with regard to the §101 rejections, the Examiner argues that claims 31-33 and 57 are directed to non-statutory subject matter. With respect to claims 31-32, Applicants have amended claim 31 to recite a "tangible computer-readable medium", and have canceled claim 32, in an effort to address the Examiner's concerns.

With respect to claim 33, the Examiner indicates at page 27 of the subject Office Action that Applicants' arguments with respect to claim 33 were considered and found persuasive, and that the §101 rejection thereof was withdrawn. As such, Applicants are

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not sure whether the Examiner include claim 33 in the rejection presented at page 2 of the subject Office Action. Nonetheless, as Applicants have argued previously, claim 33 specifies that at least one of the collecting, identifying, creating and distributing steps is "computer-implemented," and Applicants are aware of no requirement for §101 that all steps of a claimed method be implemented in a computer in order to render a computer-related claim statutory. Thus, since at least one step of claim 33 is "computer-implemented", Applicants submit that claim 33 is statutory.

With respect to claim 57, Applicants have amended this claim to clarify that the step of analyzing the operational data from the plurality of customer computers is performed "with at least one computer-implemented intelligent agent." The Examiner suggests, at page 2 of the subject Office Action that an amendment of claim 57 to recite a "computer-implemented" method would be sufficient to overcome the §101 rejection, and while Applicants have declined to make this amendment, Applicants submit that the recitation of at least one step of a claimed method as being "computer-implemented" has the same practical effect from the standpoint of §101, so claim 57 is statutory.

It also appears that, with respect to claims 33 and 57, the Examiner may be taking the position that the claims could be interpreted to merely an abstract idea not tied to a technological art, environment or machine that would result in a practical application that produces a concrete, useful, and tangible result. Applicants respectfully disagree to the extent the Examiner is taking this position. Claim 33 is directed to identifying and remedying an "undesirable operational condition [that] includes a technical problem resulting in at least one of incorrect and non-optimal operation of at least one customer computer." Likewise, claim 57 is directed to the analysis of operational data to identify an undesirable operational condition. Both claims therefore recite a practical application that creates a concrete, useful and tangible result.

Applicants therefore respectfully submit that all pending claims are statutory, and that all of the Examiner's §101 rejections should be withdrawn.

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Next, with regard to the art-based rejections, each of claims 1-33, 57 and 93 stands rejected as being obvious primarily in view of Chefalas et al. Applicants respectfully traverse these rejections, however, as Chefalas et al. is not properly citeable against the present application in an obviousness rejection pursuant to 35 U.S.C. § 103(c), which excludes any commonly-owned reference that is only citeable against an application under 35 U.S.C. §102(e), (f) or (g). Chefalas et al. meets the requirements of 35 U.S.C. §103(c) as the reference is only citeable against the instant application under 35 U.S.C. § 102(e) (given its earliest publication date of September 26, 2002 is subsequent to Applicants' effective filing date of October 30, 2001), and as the reference was commonly owned with the instant application at the time the invention of the instant application was made. See MPEP 706.02(I). As evidence of such common ownership, Applicants refer the Examiner to Reel 011673, Frame 0205, and Reel 012768, Frame 0229 of the USPTO Assignment Records.

Accordingly, Applicants respectfully submit that the Examiner's art-based rejections of claims 1-33, 57 and 93 should be withdrawn, and that all of these claims are novel and non-obvious over the art that is properly citeable against the present application. Reconsideration and allowance of independent claims 1-33, 57 and 93 are therefore respectfully requested.

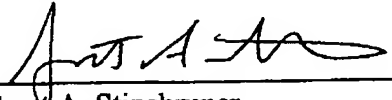
In summary, Applicants respectfully submit that all pending claims are novel and non-obvious over the prior art of record. Reconsideration and allowance of all pending claims are therefore respectfully requested. If the Examiner has any questions regarding the foregoing, or which might otherwise further this case onto allowance, the Examiner may contact the undersigned at (513) 241-2324. Moreover, if any other charges or credits

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are necessary to complete this communication, please apply them to Deposit Account 23-3000.

16 AUG 2005
Date

Respectfully submitted,



Scott A. Stinebruner
Reg. No. 38,323
WOOD, HERRON & EVANS, L.L.P.
2700 Carew Tower
441 Vine Street
Cincinnati, Ohio 45202
Telephone: (513) 241-2324
Facsimile: (513) 241-6234

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